

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Massachusetts

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Enforcement of Compliance for Nursing Facilities

The State uses other factors described below to determine the seriousness of deficiencies in addition to those described at §488.404(b)(1):

None

TN No. 95-15

Supersedes

TN No. 90-8

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CRITERIA FOR THE APPLICATION OF SPECIFIED REMEDIES  
FOR SKILLED NURSING AND INTERMEDIATE  
CARE FACILITIES

(When and how each remedy is applied,  
the amounts of any fines, and the severity of the remedies)

The following are Massachusetts criteria for the application of special remedies for nursing facilities. Special remedies apply when:

1. There are deficiencies in the nursing facility which jeopardize the health or safety of clients.
2. There are deficiencies in the nursing facility which seriously limit the capacity of the facility to provide adequate care.
3. The nursing facility has been found in violation of the same or a similar regulation twice or more within a twelve month period.
4. The facility has been denied a certificate of inspection by the Department of Public Health, Department of Public Safety or the head of the local fire department.
5. The applicant or licensee has failed to obtain explicit permission of the Public Health Council prior to acquiring a facility.
6. The applicant or licensee is operating a resident care facility without CSF licensure in which the Department has determine that either fifty percent or more of the facility's residents are Community Support Residents, or that the facility has admitted Community Support residents after July 1, 1987.
7. The applicant or licensee is not suitable or responsible to operate a nursing facility.
8. The applicant or licensee has failed to remedy or correct a cited violation by the date specified in a written notice from the Department of Public Health or by the date specified in the plan of correction accepted or modified by the Department, unless the applicant or licensee demonstrates to the satisfaction of the Department that such failure was not due to any neglect of duty and occurred despite her/his good faith attempt to make correction by the specified time.

When the nursing facility provider violates the above criteria, the Commonwealth shall send a written notice to the public and to the facility with a specified date to implement the plan of correction. The Commonwealth will impose a penalty unless the provider demonstrates to the satisfaction of the Commonwealth that such failure was not due to any neglect of duty and/or occurred despite the facility's good faith attempt to make correction by the specified time. If such facility fails or refuses to comply with the plan of correction, a fine of \$50 dollars shall be imposed each day during which such failure or refusal to comply continues.

The above criteria are also grounds for suspension or revocation of a license or refusal to review a license to generate a nursing facility. Operation of a long term care facility without a license constitutes a violation of law. The first offense shall be a fine of not more than \$500 dollars and a subsequent offense shall be a fine of not more than \$1,000 dollars or imprisonment of not more than two years.

Appointment of Receiver or emergency

The following are Massachusetts criteria for grounds to appoint a receiver for nursing facilities; Receivership shall take place upon petition of the Commonwealth Attorney General to the Superior Court department of the trial court when:

1. Life, safety, health or welfare of the resident cannot be adequately assured
2. Emergency exists or that the facility is operating without a license.
3. The Commonwealth has denied, revoked or refused to renew a license.

Emergency shall mean a situation or condition which presents imminent danger of death or serious physical harm to patients, including but not limited to imminent or actual abandonment of an occupied facility and excluding a crises due solely to a natural disaster beyond the control of the nursing facility.

As soon as a decision is made to change the status of a facility, relocation will be implemented according to guidelines established by the Commonwealth. A relocation advisor shall be available for consultation and assistance with the relocation process to minimize stress to patients and patient's families.